

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

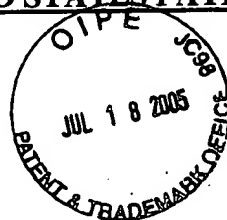
In re Patent Application of

FRIDOVICH et al

Serial No. 09/880,125

Filed: June 14, 2001

For: SUBSTITUTED PORPHYRINS



Atty. Ref.: 1579-580

TC/A.U.: 1624

Examiner: Habte, K.

Confirmation No.: 9188

* * * * *

July 18, 2005

Mail Stop 16

Director of the U.S. Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

SUBMISSION AND REFUND REQUEST

Sir:

Submitted herewith are Verified Statements (Declarations) Claiming Small Entity Status relating to the above-identified application. Therefore, kindly refund one-half of the Issue Fee (\$700) paid May 9, 2005.

When this is approved, please return a copy of this request marked "approved" directly to the undersigned for which purposes this request is submitted in triplicate.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:

Mary J. Wilson

Mary J. Wilson

Reg. No. 32,955

MJW:lat
09/15/2005 ROLEMONS 00003302 09080125
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

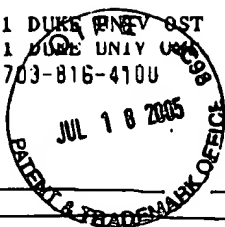
Adjustment date: 09/15/2005 ROLEMONS
09/15/2005 INVENTOR 00000000 09080125
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P.03



Applicant or Patentee: FRIDOVICH et al OMB NO. 0651-0011 (12/3/86)
Serial or Patent No.: 09/A80,125 Attorney's
Filed or Issued: June 14, 2001 Dkt. No.: 1579-580
For: SUBSTITUTED PORPHYRINS

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37.1.9(f) and 1.27 (c)) - NONPROFIT ORGANIZATION

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION DUKE UNIVERSITY

ADDRESS OF ORGANIZATION Durham, North Carolina 27708-0083

TYPE OF NONPROFIT ORGANIZATION

- ☒ University or other institution of higher education
☐ Tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3))
☐ Nonprofit scientific or educational under statute of state of The United States of America
(Name of state _____)
(Citation of statute _____)
☐ Would qualify as tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3)) if located in the
United States
☐ Would qualify as nonprofit scientific or educational under statute of state of The United States of America if located in
The United States of America
(Name of state _____)
(Citation of statute _____)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9 (3) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

- ☐ the specification filed herewith with title as listed above.
☒ application identified above.
☐ the patent identified above.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention. If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

- ☐ no such person, concern, or organization exists.
☒ each such person, concern or organization is listed below."

NATIONAL JEWISH MEDICAL AND RESEARCH CENTER, 1400 Jackson Street, Denver, Colorado 80208

AEOLUS SCIENCES, INC., 79 T.W. Alexander Drive, 4401 Research Commons, Suite 200, P.O. Box 14287, Research Triangle Park, North Carolina 27709-4287

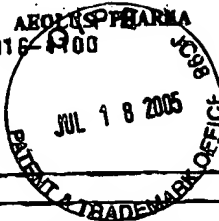
"Separate verified statement is requested from each person, concern or organization named immediately above having rights to the invention averring to his/her/its status as a small entity. (37 CFR 1.27)

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.26(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Robert L. Taber, Ph.D.
TITLE IN ORGANIZATION Vice Chancellor, Corporate and Venture Development
ADDRESS PERSON SIGNING Rm. 1121 Davison Bldg., DUMC, Durham, NC 27710
SIGNATURE [Signature] DATE 7/11/05

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OMB No. 0651-0011 (12/31/00)

Applicant or Patentee: FRIEDOVICH et al

Attorney's Dkt. No. 1878-580

Serial or Patent No.: 09/880,128

Filed or Issued: June 14, 2001

For:

SUBSTITUTED PORPHYRINS

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS [37 CFR 1.01 and 1.27(c)] - SMALL BUSINESS CONCERN**

I hereby declare that I am



the owner of the small business concern identified below:

an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN AEOLUS SCIENCES, INC.

ADDRESS OF CONCERN 78 T.W. Alexander Drive, 4401 Research Commons, Suite 200, P.O. Box 14287, Research Triangle Park, North Carolina 27709-4287

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.8(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled:

SUBSTITUTED PORPHYRINS

by inventors

FRIEDOVICH et al

described in

☐ the specification filed herewith.

☒ application Serial No. 09/880,128, filed June 14, 2001

☐ patent No. _____, issued _____

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor who could not qualify as an independent inventor under 37 CFR 1.8(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.8(d), or a nonprofit organization under 37 CFR 1.8(e). (NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention asserting to their status as small entities (37 CFR 1.27))

Name NATIONAL JEWISH MEDICAL AND RESEARCH CENTER

Address 1400 Jackson Street, Denver, CO 80206

☐ Individual

☐ Small Business Concern

☒ Nonprofit Organization

Name DUKE UNIVERSITY

Address Durham, North Carolina 27708-0083

☐ Individual

☐ Small Business Concern

☒ Nonprofit Organization

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING

TITLE OF PERSON OTHER THAN OWNER

ADDRESS OF PERSON SIGNING

SIGNATURE

Richard P. BURGOON, Jr

Chief Executive Officer

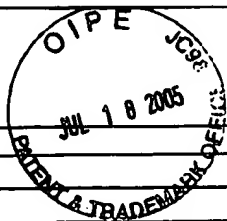
11626 Timberlake Drive San Diego, CA 92131

DATE 5-6-05

OMB No. 0651-0011 (12/31/00)

852617

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OMB NO. 0651-0011 (12/3/86)

Applicant or Patentee: FRIDOVICH et al

Attorney's

Serial or Patent No.: 09/880,125Dkt. No.: 1579-580Filed or Issued: June 14, 2001

For:

SUBSTITUTED PORPHYRINSVERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 1.9(f) and 1.27 (c)) - **NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION NATIONAL JEWISH MEDICAL AND RESEARCH CENTERADDRESS OF ORGANIZATION 1400 Jackson Street, Denver, Colorado 80206

TYPE OF NONPROFIT ORGANIZATION

- ☐ University or other institution of higher education
- ☐ Tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3))
- ☒ Nonprofit scientific or educational under statute of state of The United States of America
(Name of state Colorado)
(Citation of statute Colo. Rev. Stat. 7-20-102(10) (1986))
- ☐ Would qualify as tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3)) if located in the United States
- ☐ Would qualify as nonprofit scientific or educational under statute of state of The United States of America if located in The United States of America
(Name of state _____)
(Citation of statute _____)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9 (3) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

- ☐ the specification filed herewith with title as listed above.
- ☒ application identified above.
- ☐ the patent identified above.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention. If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

- ☐ no such person, concern, or organization exists.
- ☒ each such person, concern or organization is listed below.*

**AEOLUS SCIENCES, INC., 79 T.W. Alexander Drive, 4401 Research Commons, Suite 200, P.O. Box 14287,
Research Triangle Park, North Carolina 27709-4287**

DUKE UNIVERSITY, Durham, North Carolina 27708-0083

*Separate verified statement is requested from each person, concern or organization named immediately above having rights to the invention, averring to his/her/its status as a small entity. (37 CFR 1.27)

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Richard B. Johnston, Jr., M.D.TITLE IN ORGANIZATION Executive Vice President for Academic AffairsADDRESS PERSON SIGNING 1400 Jackson Street, Denver, CO 80206SIGNATURE DATE 5/19/05**BEST AVAILABLE COPY**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 1579-580

C# M#

FRIDOVICH et al

Serial No. 09/880,125

Filed: June 14, 2001

Title: SUBSTITUTED PORPHYRINS

TC/A.U.

1624

Examiner: Habte, K.

Date: July 18, 2005

PATENT MAINTENANCE
DIVISION

2005 JUL 19 PM 4:27

US PATENT & TRADEMARK
OFFICE

Mail Stop 16

Director of the U.S. Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

SUBMISSION AND REFUND REQUEST

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

| | | | |
|--|----|----------------------|--------------------------------|
| Total effective claims after amendment | 0 | minus highest number | |
| previously paid for | 20 | (at least 20) = | 0 x \$50.00 |
| | | | \$0.00 (1202)/\$0.00 (2202) \$ |

| | | | |
|------------------------------------|---|----------------------|--------------------------------|
| Independent claims after amendment | 0 | minus highest number | |
| previously paid for | 3 | (at least 3) = | 0 x \$200.00 |
| | | | \$0.00 (1201)/\$0.00 (2201) \$ |

If proper multiple dependent claims now added for first time, (ignore improper); add
\$360.00 (1051)/\$180.00 (2051) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s)

| | |
|------------------------|----------------------------------|
| One Month Extension | \$120.00 (1251)/\$60.00 (2251) |
| Two Month Extensions | \$450.00 (1252)/\$225.00 (2252) |
| Three Month Extensions | \$1020.00 (1253)/\$510.00 (2253) |
| Four Month Extensions | \$1590.00 (1254)/\$795.00 (2254) |

Terminal disclaimer enclosed, add
\$130.00 (1814)/\$65.00 (2814) \$

☒ Applicant claims "small entity" status. ☒ Statement filed herewith

| | | |
|---|-----------------|----|
| Rule 56 Information Disclosure Statement Filing Fee | \$180.00 (1806) | \$ |
|---|-----------------|----|

| | | |
|--------------------------|----------------|----|
| Assignment Recording Fee | \$40.00 (8021) | \$ |
|--------------------------|----------------|----|

| | | |
|--------|--|----|
| Other: | | \$ |
|--------|--|----|

TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor
Arlington, Virginia 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
MJW:tat

NIXON & VANDERHYE P.C.
By Atty: Mary J. Wilson, Reg. No. 32,955

Signature: Mary J. Wilson**BEST AVAILABLE COPY**

974995

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 1579-580

C# M#

PATENT NO.
DAY

FRIDOVICH et al

TC/A.U. 1624

Serial No. 09/880,125

Examiner: Habte, K.

Filed: June 14, 2001

Date: July 18, 2005

Title: SUBSTITUTED PORPHYRINS

2005 JUL 19 PM 4:00

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Signature: Mary J. Wilson**BEST AVAILABLE COPY**

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In re Patent Application of

FRIDOVICH et al

Serial No. 09/880,125

Filed: June 14, 2001

For: SUBSTITUTED PORPHYRINS



Atty. Ref.: 1579-580

TC/A.U.: 1624 2005 JUL 19 11 00 27

Examiner: Habte, K. US PATENT & TRADEMARK OFFICE

Confirmation No.: 9188

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July 18, 2005

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Mary J. Wilson
Reg. No. 32,955

MJW:tat
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

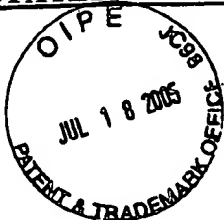
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FRIDOVICH et al

Serial No. 09/880,125

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By:

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